

TO: Zoning Board of Adjustment
FROM: Community Development Department
DATE: March 9, 2016

RE: **CASE #CU-15-004**
REQUEST: A conditional use permit to allow a salvage operation/storage yard in an I-2/General Industrial District.

APPLICABLE

CODE SECTIONS: §15.21.030 Conditional Uses. The following conditional uses shall be permitted in an I-2 District, in accordance with the requirements set forth in Chapter 15.27:

- (7) Salvage operations;
- (8) Storage Yard

LOCATION: The Northwest corner of Avenue M and North 14th Street, formerly known as 1400 Avenue M along with 1301 North 14th Street located at the Northeast corner of Avenue M and North 14th Street.

LEGAL

DESCRIPTION: Lots 1 through 3, Block 2, Thompson's Addition and Lots 2 through 5, Block 1, Thompson's Addition

APPLICANT: Ganceden Properties, LLC, 1301 North 14th Street, Council Bluffs, IA 51501

REPRESENTED BY: Lyle W. Ditmars, 233 Pearl Street, Council Bluffs, IA 51503

BACKGROUND – In March, 2013, the applicants requested rezoning of the Northwest corner of Avenue M and North 14th Street (Lots 1-3, Block 2, Thompson's Addition) from R-3/Low Density Multi-Family Residential to I-2/General Industrial (which they had recently purchased) in order to expand the existing nonconforming salvage operation/storage yard directly to the east at 1301 North 14th Street. The rezoning request was ultimately denied by the City Council.

The owner then began utilizing the property for nonresidential purposes following the denied rezoning request. The property had been fenced, surfaced with gravel and utilized for various non-residential uses. The non-residential use of the property resulted in notification to the owner that use of the property was in violation of Title 15 (Zoning) of the Municipal Code. In May, 2015, they again requested rezoning to I-2 and the City Council approved rezoning Lots 1-3, Block 2, Thompson's Addition to (Limited) I-2/General Industrial, subject to the conditions that only two of the conditional uses identified in Section 15.21.030, salvage operations and storage yard, be allowed on the subject parcel. (Copy attached)

At the same time as the rezoning request the applicants also requested vacation of North 14th Street north of Avenue M so they could purchase the right-of-way and combine it with their existing property. MidAmerican Energy was opposed to the vacation request due to existing overhead distribution facilities and requested that the vacation request be denied. The applicant withdrew the request until an agreement could be made with MidAmerican. On Friday, February 26, 2016, the Community Development Department was informed that an agreement is pending between the applicant which will give MidAmerican Energy access to the right-of-way, if vacated, and that the utility is no longer opposed.

Because they are moving forward with the vacation request, the applicants are also proceeding with the request for a conditional use permit to allow a salvage operation/storage yard on Lots 1-3, Block 2, Thompson's Addition at the Northwest corner of Avenue M and North 14th Street. The Community Development Department expanded the request to include the applicant's property to the east at 1301 North 14th Street (Lots 2 through 5, Block 1, Thompson's Addition) due to the fact that a conditional use permit has not been applied for/approved for a salvage operation/storage yard at this location.

At the time of the original rezoning request, the following information was submitted for consideration: *"Ganeeden Properties, located at 1301 North 14th Street, buys and processes ferrous and non-ferrous scrap metals. According to their representative "the metals are purchased from manufacturers, plumbers, electricians, farmers, collectors, or anyone that has scrap metal. The ferrous metals are placed in a container and are not processed. The ferrous or iron metals are sold to a processor. The non-ferrous metals are processed inside the building located on the property and packaged for sale. Processing consists of segregation, shearing, baling, sizing and stripping according to the buyer's specifications. Packaging consists of baling and boxing. These metals are then sold to a third party broker who resells to smelters/mills."*

A plan of operation, as submitted by the applicant's representative, is attached for your review.

CURRENT ZONING AND LAND USE – Land uses surrounding the subject property include residential uses to the south and west. Railroad property lies to the north with industrial uses to the east. Surrounding zoning is shown on the attached map.

CITY DEPARTMENTS AND UTILITIES – No adverse comments have been received from any City department or utility.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet of the property were notified of the request. No comments have been received.

COMMENTS

The Zoning Board of Adjustment shall make findings of fact, based upon the evidence presented at the public hearing, with respect to each of the applicable standards in Section 15.02.090.E (Findings of Fact).

The Zoning Board of Adjustment may impose such conditions and restrictions upon the location, construction, design and use of the property benefited by a conditional use as may be necessary or appropriate to protect the public interest, adjacent property and property values. Failure to maintain such conditions or restrictions as may be imposed shall constitute grounds for revocation of the conditional use. The terms of relief granted, including any conditions or restrictions, shall be specifically set forth in the concluding statement separate from the findings of fact. No conditional use shall be approved unless the Zoning Board of Adjustment makes findings of fact based directly on the standards and conditions imposed by this section. The findings of fact are presented below *in italics*:

1. The proposed conditional use will comply with all applicable regulations of this Ordinance, including lot requirements, bulk regulations, use limitations and all other standards or conditions contained in the provisions authorizing such use. *The size of the property is adequate for the operation of the proposed use.*

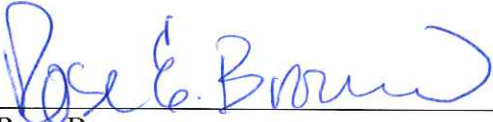
- 2. Adequate utility, drainage and other necessary facilities or improvements have been or will be provided.** *No utility service extensions and/or infrastructure upgrades are necessary for a salvage operation/storage yard to operate at this location.*
- 3. Adequate access roads or entrance and exit drives will be designed and built to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.** *The subject property abuts Avenue M and North 14th Street, neither of which is constructed to current City standards. The applicant shall work with the Public Works Department to determine the appropriate design and location for any future driveways.*
- 4. All necessary permits and licenses required for the operation of the conditional use have been obtained, or it clearly appears that such permits are obtainable for the proposed conditional use on the subject property.** *The applicant shall obtain all required building, driveway and parking lot permits from the City. If necessary, the applicant shall also obtain any necessary storm water permits. Any proposed signage shall receive a sign permit from the City prior to installation.*
- 5. All exterior lighting shall be shaded as necessary to direct the light away from neighboring residential properties.** *Current lighting consists of halogen lights installed by MidAmerican Energy. All exterior lights shall comply with Section 15.24.050, Lighting Controls, of the Council Bluffs Zoning Ordinance.*
- 6. The location and size of the conditional use, the nature and intensity of the activities to be conducted in connection with it, the size of the site, and the relationship of the site to adjacent roadways shall be considered to assure the use is in harmony with the appropriate and orderly development of the district and the neighborhood in which it is located.** *The subject property is zoned I-2 General Industrial District(Limited) and exceeds the minimum the lot size required. Surrounding land uses to the north, south and east are all industrial in nature. If developed in full compliance with adopted City requirements the proposed request is not anticipated to have a negative impact on existing or future land uses in the surrounding area.*
- 7. The location, nature and height of buildings, structures, walls and fences on the site, and the nature and extent of landscaping and screening on the site shall be designed so that the use will not reasonably hinder or discourage the appropriate development, use and enjoyment of the adjacent land, buildings and structures.** *The existing fence along the south and west property lines should be adequate to screen the operation from the abutting residential uses.*
- 8. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.** *If operated properly the proposed use should not impact the current valuation of the surrounding properties. It is not anticipated that the proposed use will adversely impact the surrounding properties*

RECOMMENDATION

The Community Development Department recommends approval of a conditional use permit to allow a salvage operation/storage yard in an I-2/General Industrial District (Limited) on Lots 1 through 3, Block 2, Thompson's Addition and Lots 2 through 5, Block 1, Thompson's Addition and abutting North 14th Street right-of-way (if vacated), to become effective upon approval of the vacation of North 14th Street, subject to the following conditions:

1. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.

2. The conditional use shall comply with all site development regulations pertaining to the I-2/General Industrial District (Limited) as amended by Ordinance No. 6239 on June 22, 2015.
3. The hours of operations shall be as presented in the application.
4. All exterior lighting shall comply with the standards stated in *Section 15.24.050, Lighting Controls*, of the Council Bluffs Zoning Ordinance.
5. All signage shall comply with the standards in Chapter 15.33, *Signs*, of the Council Bluffs Zoning Ordinance.
6. All required off-street parking spaces, driveways and drive aisles shall be hard-surfaced and designed to comply with the standards stated in Section 15.23, *Off-Street Parking, Loading and Unloading* of the Council Bluffs Zoning Ordinance.
7. All contractor yard areas shall be hard-surfaced and designed to comply with the standards stated in Section 15.23, *Off-Street Parking, Loading and Unloading* of the Council Bluffs Zoning Ordinance.
8. The applicant shall contact the Council Bluffs Public Works Department to develop any necessary plans for stormwater management and ingress/egress onto Avenue M.
9. The existing required wood fence along the south and west sides of the property shall remain in place and appropriate measures shall be taken by the property owner to ensure continued maintenance.



Rose Brown
Planning Coordinator



Rebecca Sall
Assistant Planner

RLB/RLS



Looking northeasterly from Avenue M



Looking northwest from Avenue M



Existing fence along west property line



Existing fence along west property line

ORDINANCE NO. 6239

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2010 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REZONING THE PROPERTY LOCATED AT 1400 AVENUE M, BEING LOT 1-3, BLOCK 2, THOMPSON'S ADDITION, FROM R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL TO I-2/GENERAL INDUSTRIAL (AS LIMITED HEREIN) AND AS DEFINED IN CHAPTER 15.21 OF THE MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended to rezone the property located at 1400 Avenue M, being Lot 1-3, Block 2, Thompson's Addition, from R-3/Low Density Multi-Family Residential to I-2/General Industrial.

Prior to entering the public hearing, the applicant did submit in writing, to the City Council, a document in which the applicant agreed that the only two of the Conditional Uses identified in Section 15.21.030 be allowed on the subject parcel including: (7) Salvage operations and (8) Storage yard. This document is attached hereto and identified as Exhibit A. Also attached as Exhibit B, is a redacted copy of Chapter 15.21 showing only the language that will be applicable to the parcel being rezoned.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

June 22, 2015


MATTHEW J. WALSH Mayor

Attest:


MARCIA L. WORDEN City Clerk

First Consideration: 6/8/2015
Second Consideration: 6/22/2015
Public Hearing: 6/22/2015
Third Consideration: Waived

CONDITIONS FOR THE REZONING OF 1400 AVENUE M, BEING LOT 1-3, BLOCK 2, THOMPSON ADDITION
IN THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, FROM R-3/LOW DENSITY MULTI-
FAMILY RESIDENTIAL TO I-2/GENERAL INDUSTRIAL

As a representative, Ganeeden Properties, LLC, owner of the above referenced parcel and applicant for the requested rezoning of same, I do hereby agree and understand that some of the uses both Permitted and Conditional in an I-2 Zone could be detrimental to some of the surrounding parcels.

Because of the potential for detrimental impact I agree that none of the Principal Uses set out in Section 15.21.020 of the Council Bluffs Municipal Code should be permitted on the subject parcel if the request to rezone to I-2 be granted.

I further understand that some of Conditional Uses set out in Section 15.21.030 could also be detrimental to some of the surrounding parcels. Because of this I would request that only two of the Conditional Uses identified in this section be allowed on the subject parcel if the requested rezoning is granted, those being; (7) Salvage Operations and (8) Storage Yard.

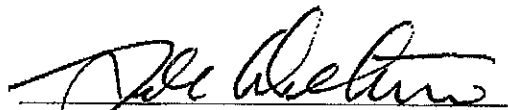
I understand that if the rezoning is granted subject to the conditions set out above the limited Conditional Uses would still be subject to compliance with the requirements set forth in Chapter 15.27 of the Council Bluffs Municipal Code and subject to the approval of the Zoning Board of Adjustments for the City of Council Bluffs.

The requested rezoning shall not become effective until such time as a decision granting a conditional use for either a Salvage Operation or a Storage Yard for the subject property has become final.

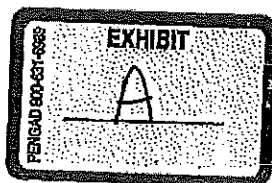
As witness of my agreement to the above stated conditions on my request for rezoning I have affixed my signature below on this 28th day of January, 2015.



Representative of Ganeeden Properties, LLC



Attorney for Ganeeden Properties, LLC



15.21.

Chapter 15.21 - I-2/GENERAL INDUSTRIAL DISTRICT

Sections:

15.21.010 - Statement of Intent.

This district is intended to provide for the development of general manufacturing and industrial areas. This district is designed to accommodate industrial uses with moderate external effects.

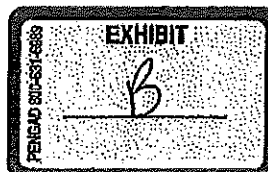
(Ord. 5366 § 4 (part), 1998).

15.21.020 - Principal uses.

The following principal uses shall be permitted in the I-2 district:

- ~~(4) Agricultural sales and service;~~
- ~~(2) Auction;~~
- ~~(3) Auction indoor;~~
- ~~(4) Automobile repair, minor and major;~~
- ~~(5) Automobile sales and rental;~~
- ~~(6) Automobile service establishment;~~
- ~~(7) Building material, sale and storage;~~
- ~~(8) Business service establishment;~~
- ~~(9) Commercial storage;~~
- ~~(10) Contractor shop;~~
- ~~(11) Data center;~~
- ~~(12) Equipment repair;~~
- ~~(13) Equipment sales and rental;~~
- ~~(14) Governmental maintenance facility;~~
- ~~(15) Greenhouse, commercial;~~
- ~~(16) Local utility service;~~
- ~~(17) Manufacturing, light and general;~~
- ~~(18) Private parking lot;~~
- ~~(19) Public parking lot;~~
- ~~(20) Public safety services;~~
- ~~(21) Railroad yard and intermodal facilities;~~
- ~~(22) Sign manufacturing;~~
- ~~(23) Tavern;~~
- ~~(24) Truck service establishment;~~
- ~~(25) Truck terminal;~~
- ~~(26) Warehousing and distribution, limited and general;~~

(Ord. 5957 § 1, 2007).



(Ord. No. 6148, § 1, 2-13-2012).

15.21.030 - Conditional uses.

The following conditional uses shall be permitted in an I-2 district, in accordance with the requirements set forth in Chapter 15.27:

- ~~(1) Contractor yard;~~
- ~~(2) Correctional placement residences;~~
- ~~(3) Day care services;~~
- ~~(4) Detention facility;~~
- ~~(5) Grain storage and distribution;~~
- ~~(6) Rubble dump;~~
- (7) Salvage operations;
- (8) Storage yard;
- ~~(9) Emergency shelter and homeless service center;~~
- ~~(10) Commercial recreation (indoor);~~
- ~~(11) Meat packing and processing;~~

(Ord. 5957 § 2, 2007).

15.21.040 - Accessory uses.

The following accessory uses shall be permitted in an I-2 district:

- ~~(1) Uses of land or structure customarily incidental and subordinate to one of the principal uses, unless otherwise excluded;~~

(Ord. 5366 § 4 (part), 1998).

15.21.050 - Site development regulations.

Minimum Lot Size

Lot area	15,000 square feet
Lot width	75 feet
Lot depth	150 feet

Minimum Setbacks	All Structures
Front yard	15 feet
Interior yard	10 feet

Street side yard	10 feet
Rear yard	10 feet
Maximum height	75 feet*
Lot coverage, all structures	70% maximum

*Maximum Height: Seventy-five (75) feet; provided, however, that on parcels of land which in the aggregate are more than fifty (50) acres in size the maximum height shall be increased up to one hundred sixty (160) feet if the following requirements are met at the time of construction: (i) title to the land shall be consolidated in one person or entity or controlled through affiliates or subsidiaries by one person or entity; and (ii) for every one foot in height in excess of seventy-five (75) feet, the minimum yard setbacks shall be increased by one foot.

(Ord. 5957 § 3, 2007; Ord. No. 6206, § 1, 4-7-14).

15.21.060 - Additional regulations.

- (1) No tavern shall be located within two hundred (200) feet of any school or religious building, public park, or any conforming residential use. Distance shall be measured between the closest points from lot line to lot line.

(Ord. 5366 § 4 (part), 1998).

15.21.070 - Signs.

Signage in this district shall comply with Chapter 15.33, Signs.

(Ord. 5366 § 4 (part), 1998).

Plan of Operation

(Amended)

The site will be used as a staging and storage area for the salvage business currently in operation by the Applicant across the street to the east. Applicant hopes to eventually erect a building on the site but that will be several years in the future.

The plan is to make use of the proposed site on an increasing basis as the same is paved over a 12-18 month period. The paving will begin in the northeast corner of the lots and expand as the concrete becomes available. One-third of the area is to be paved by October 31, 2016.

Hours of operation will be 8-5 M-F and 8-12 on Saturday

Employees: 7

Using Site: 3-7

Access: From 14th St. and Ave. "M"(future)

Lighting: Halogen lights installed by MidAmerican about 15 months previous

Signage: None additional contemplated



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Case #CU-15-004

Print Date: 03/07/2016
Image Date: 04/20/2013
Level: Neighborhood

